

COASTAL CONSERVANCY

Staff Recommendation
June 30, 2004

Tomales Bay Watershed Enhancement Program

File No. 04-033
Project Manager: Sheila Semans

RECOMMENDED ACTION: Authorization to disburse up to \$600,000 to the Marin Resource Conservation District to implement the Tomales Bay Watershed Enhancement Program.

LOCATION: Tomales Bay watershed is located in western Marin County (Exhibit 1)

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

- Exhibit 1: Project Location and Site Map
 - Exhibit 2: Approved List of Restoration Activities
 - Exhibit 3: Potential Project Photos
 - Exhibit 4: Mitigated Negative Declaration
 - Exhibit 5: Mitigation Monitoring Plan
 - Exhibit 6: Mitigated Negative Declaration comments summary
 - Exhibit 7: Letters of Support
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31251-31270 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed six hundred thousand dollars (\$600,000) to the Marin Resource Conservation District to conduct erosion control and riparian enhancement projects in the Tomales Bay watershed in accordance with the agreed-upon practices of the Marin Coastal Watersheds Permit Coordination Program, subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for each project, the Marin Resource Conservation District shall submit for review and approval of the Executive Officer of the Conservancy:

- a. A work program, including an annual list of priority enhancement projects, schedule and budget;
 - b. The names and qualifications of any contractors; and
 - c. Evidence of all necessary permits and authorizations.
2. Prior to implementing any enhancement project funded by this grant, the Marin Resource Conservation District shall secure and submit to the Executive Officer for review and written approval an agreement with the owner of the property on which the project is to occur that authorizes the proposed enhancement work, that serves to protect the public interest in any improvements installed or constructed with Conservancy funds and that ensures that project enhancements to the property will be monitored and managed in a manner consistent with the purposes of this grant.
3. Conservancy funding shall be acknowledged by erecting and maintaining on the property on which an enhancement project is undertaken a sign or signs, the design and placement of which has been reviewed and approved by the Executive Officer or by some other alternative form of acknowledgement, appropriate to the project and approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the purposes and criteria of Chapter 6 of Division 21 of the Public Resources Code (Sections 31251 to 31270) regarding enhancement of coastal resources.
2. The proposed authorization is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The Conservancy has independently reviewed and considered the Mitigated Negative Declaration attached to the accompanying staff recommendation as Exhibit 4 adopted by the Marin Resource Conservation District, on June 9, 2004 pursuant to the California Environmental Quality Act, and finds that the project, as mitigated, avoids, reduces or mitigates the possible significant environmental effects to a level of insignificance, and that there is no substantial evidence that the project enhancement activities in the Tomales Bay watershed may have a significant effect on the environment, as defined in 14 Cal. Code of Regulations Section 15382.

PROJECT SUMMARY:

The Tomales Bay watershed is remarkable for its beauty, wildlife, and diverse human history. The watershed includes a rich abundance of plant and animal life, and supports a strong agricultural community, mariculture industry, and commercial and recreational fisheries. However, human activity in the watershed has had significant cumulative impacts on water quality, habitats, and species. The proposed authorization will allow the Marin Resource Conservation District (MRCD) to implement an enhancement program in the Tomales Bay

watershed in western Marin County. Under the Tomales Bay Watershed Enhancement Program, the MRCD will implement at least 12 enhancement projects throughout the watershed over the next five years. Enhancement projects will take place on both public and private lands, with the primary purpose to improve aquatic, salmonid and riparian habitat in the Walker and Lagunitas Creek sub-watersheds that flow directly into Tomales Bay. Each of the enhancement projects will consist of implementation of one or more of 16 possible enhancement practices that have been strictly defined and pre-approved for the Tomales Bay watershed under the Marin Coastal Watersheds Permit Coordination Program.

In December 2001, the Conservancy Board authorized funding for the development and preparation of the Marin Coastal Watersheds Permit Coordination Program, a program that brought together nine local, state and federal regulatory agencies to agree on restoration actions that could be included in one, pre-approved restoration permit tailored specifically for the Tomales Bay watershed. Sixteen practices have been agreed upon by these agencies (Exhibit 2) and reviewed by the general public. Conservatively defined, these restoration actions are designed to control erosion, improve riparian habitat, and stabilize eroding channels (Exhibit 3). This program removes individual permitting as a barrier to restoration while ensuring the integrity of restoration practices in the region.

The proposed funding would allow the MRCD, as the master permit holder, to implement individual restoration projects that fall within these 16 permitted activities (Exhibit 2). By funding the Tomales Bay Watershed Enhancement Program, rather than each specific project, the Conservancy will provide the MRCD with the flexibility to take full advantage of seasonal conditions, project variables and ranching schedules and, as a result, expedite project implementation timelines. Working with a technical advisory group selected by the MRCD Board and Conservancy staff, MRCD will initiate an annual project selection process to identify priority projects for the coming year. The project list will then be presented to the Tomales Bay Watershed Council for review and comment. Once the final project list is identified, the MRCD will provide specific project work plans and detailed designs to the regulatory agencies and Conservancy for approval. During project implementation, the MRCD will work under the oversight of the Department of Fish and Game (DFG) and the U.S. Fish and Wildlife Service (USFWS).

Past planning efforts will help guide the project selection process. The Conservancy-funded Tomales Bay Watershed Stewardship Plan will guide the overarching preservation and conservation efforts within the watershed. In the Walker Creek sub-watershed, where the landscape is dominated by privately owned ranchlands, project selection will continue to be guided by the Walker Creek Watershed Plan's Fisheries Enhancement Ranking of High Priority Sites, created by the MRCD in 2001. Funding will allow ranchers to continue their efforts to control sedimentation and improve water quality on their property. Projects will focus on riparian fencing and revegetation and streambank stabilization measures.

In contrast, most of the land in the Lagunitas Creek sub-watershed is publicly owned and the dominant land use is open space, with livestock grazing on some National Park Service lands. Two endangered salmonids, coho salmon and steelhead trout, utilize the Lagunitas Creek, as does the endangered freshwater shrimp. A 2002 grant from the Regional Water Quality Control

Board (RWQCB) is currently being used to identify limiting factors for salmonids and freshwater shrimp within the Lagunitas Creek watershed and has led to the development of selection criteria that will identify and rank restoration priorities throughout the watershed. Implementation in this watershed will focus on fisheries improvement and streambank protection practices.

Over the past fifteen years, the MRCD has worked with private landowners to fix gullies, maintain ranch roads, improve the health of their grazing lands, upgrade animal waste disposal systems, and otherwise care for their lands. Seventeen major erosion sources were repaired using Coastal Conservancy funding in the 1980s and 1990s. More recently, seven miles of stream restoration was completed on several reaches along Chileno, Salmon, and mainstem Walker Creeks, and an environmental and agricultural education program for school children was developed at the Walker Creek Ranch. Along with the Coastal Conservancy, funding for these programs were provided by the DFG, USDA Natural Resources Conservation Service, and the State Water Resources Control Board (SWRCB).

Projects implemented through the Coastal Watersheds Permit Coordination Program require a monitoring plan approved by the regulatory agencies, which will apply to all Tomales Bay Watershed Enhancement Program projects. The MRCD will coordinate with other agencies currently monitoring the watershed to assure that resources are used most efficiently and that all parties will be able to appreciate a greater understanding of the effects of restoration actions. For example, the Marin Municipal Water District (MMWD) and Point Reyes National Seashore (PRNS) have committed to monitoring within the Lagunitas Creek watershed following the implementation of SWRCB-funded projects, while UC Cooperative Extension will be monitoring SWRCB-funded projects throughout the Tomales Bay watershed. The Point Reyes Bird Observatory will be monitoring bird populations at previously restored sites. MRCD will coordinate with these efforts.

Site Description: The Tomales Bay watershed extends from Mount Tamalpais and Bolinas Ridge, east to the headwaters of Walker Creek and Nicasio and Lagunitas Creeks, and west to the Inverness Ridge. The Tomales Bay watershed is remarkable for its beauty and its diversity of wildlife. It is home to nearly forty species of land mammals including bobcat, mountain lions, and coyote; marine mammals; river otters; and more than 450 bird species in the watershed and on the adjacent lands of the Point Reyes National Seashore. Nearly half the bird species of North America have been spotted in this region. It also provides sanctuary to 26 federally protected species, notably remnant populations of coho salmon and steelhead trout.

At 76 square miles, the Walker Creek sub-watershed drains into the northern end of Tomales Bay and lies almost completely in northwestern Marin County. It contains some of western Marin County's wildest, most undisturbed landscape, along with some of the most degraded.

At 103-square miles, the Lagunitas Creek watershed is the largest drainage to Tomales Bay. It originates on Mt. Tamalpais and flows northwest before emptying into the southern end of Tomales Bay. Most of the land along the mainstem of Lagunitas Creek is publicly owned. However, there are a few private landowners between the National Park Service boundary and the mouth of Lagunitas Creek.

Walker and Lagunitas Creeks are home to many threatened and endangered species that inhabit the watershed, such as California freshwater shrimp, tidewater goby, coho salmon, steelhead trout, California red-legged frog, western snowy plover, northern spotted owl, and the Point Reyes jumping mouse. However, excessive sedimentation has reduced the surface area and depth of the bay, diminished salmon habitat, and the remaining habitat has been further compromised due to numerous human activities, including both recreational and commercial. Tomales Bay, Lagunitas and Walker Creeks are all listed as impaired water bodies by the San Francisco Bay Regional Water Quality Control Board, with causes listed as sediment, mercury, nutrients, and pathogens.

Project History: The Conservancy has a long history of interest and involvement in protecting, restoring, and enhancing the agricultural and natural resource values of west Marin County and the Walker Creek watershed specifically. In 1984, the Conservancy produced “A Program for Restoring the Environment of Tomales Bay”, and consequently authorized a one million-dollar grant to the MRCD to undertake erosion control projects in the Walker Creek watershed. Work on the seventeen large-scale erosion projects funded by this grant has kept thousands of tons of soil from reaching mainstem Walker Creek and Tomales Bay and pioneered many biotechnical erosion control methods that are now included in the DFG restoration manual. Subsequently, DFG conducted an erosion control inventory project that identified \$6,000,000 worth of projects, *not* including design, permits, and coordination costs. Over the years, the MRCD has continued to seek funding for project implementation.

In recent years, the Conservancy has contributed funding to the MRCD’s enhancement efforts that have resulted in over seven miles of stream restoration along Chileno, Salmon, and mainstem Walker Creeks. At the same time, the Conservancy partially funded the Tomales Bay Watershed Council’s Stewardship Plan, which was released last year. In 2001, the Conservancy funded the Marin Coastal Watersheds Permit Coordination Program that will, as described above, provide one-stop permitting for projects within the Tomales Bay watershed.

Furthermore, since the mid-1980’s, the Conservancy has enjoyed an effective partnership with the Marin Agricultural Land Trust (MALT). Most recently, the Conservancy has awarded over \$1.8 million since 2002 to acquire conservation and/or agricultural easements over 2,400 acres of agricultural land in the Tomales Bay watershed.

PROJECT FINANCING:

Coastal Conservancy	\$600,000
Department of Fish and Game	\$187,000
State Water Resources Control Board (Proposition 13)	\$300,000
USDA Natural Resources Conservation Service	\$ 50,000
Marin County	\$ 20,000

In-Kind Contributions:

Ranchers (fencing, grazing mgmt)	\$30,000
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STRAW (student plantings)	\$ 5,000
Monitoring (UCCE, MMWD, PRBO, NPS)	\$10,000

Total Project Cost **\$1,202,000**

The proposed funding source for the Conservancy's contribution is Proposition 40, the "California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002". Under Public Resources Code Section 5096.650(b), this funding source may be used for the rehabilitation and restoration of land and water resources in accordance with the provisions of the Conservancy's enabling legislation, Division 21 of the Public Resources Code. The proposed project will serve to restore and enhance aquatic, salmonid and riparian habitat within the Tomales Bay watershed and, as discussed in the section found immediately below, the project is consistent with Chapter 6 of Division 21. Proposition 40 also requires the Conservancy to give priority to grant projects with matching funds (Public Resources Code Section 5096.651). The project is supported by the commitment of a variety of public and private stakeholders to provide substantial matching funds.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project would be undertaken pursuant to Chapter 6 of the Conservancy's enabling legislation, Public Resource Code Sections 31251-31270, authorizing coastal resource enhancement activities.

Under Section 31251, the Conservancy may award grants for the purpose of enhancement of coastal resources that, because of natural or human-induced events, have suffered loss of natural and scenic values. The proposed project is intended to improve streamside habitat and water quality in the Tomales Bay watershed, a coastal watershed that has been degraded by agriculture and urban land uses.

Section 31251.2(a) allows the Conservancy to award grants to enhance a watershed resource that is partly outside of the coastal zone in order to enhance coastal resources within the coastal zone. Although specific projects have not yet been defined, the proposed authorization could result in projects outside the coastal zone. However, all projects in the Tomales Bay watershed are critical to water quality and habitat in Tomales Bay, a critically important estuary for countless species, which is located within the coastal zone.

The proposed project is consistent with Section 31252 which requires resource enhancement activities be consistent with the County of Marin's Local Coastal Program, as detailed in the "Consistency with Local Coastal Program Policies" section below.

Finally, as required by Section 31253, staff has considered the urgency of the project, the availability of funding for other enhancement projects and the inability of the MRCDD to fully fund the project through other sources in determining the amount of proposed Conservancy funding for this project. In recommending the project for Conservancy approval, staff has also applied to the project the factors typically used to determine project priority and eligibility, as

described in detail in the “Consistency with Conservancy Project Selection Criteria and Guidelines” section, below.

**CONSISTENCY WITH CONSERVANCY'S
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 5 Objective A**, the proposed project will enhance stream corridors and oak woodlands.

Consistent with **Goal 6 Objective B**, the proposed project will improve water quality to benefit coastal resources.

Consistent with **Goal 7 Objective B**, the proposed project will assist farmers and ranchers to reduce impacts of their operations on wildlife habitat and water quality.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the “Consistency with Conservancy's Enabling Legislation” section above.
2. **Consistency with purposes of the funding source:** See the “Project Financing” section above.
3. **Support of the public:** The proposed project has widespread support from landowners, resource agencies, environmental organizations, legislators, and community groups, including the Marin Agricultural Land Trust, and the Regional Water Quality Control Board, Congressional Member Lynn Woolsey and Assembly Member Joe Nation. Letters of support are attached as Exhibit 7.
4. **Location:** Without Conservancy funding, the restoration of the critical Tomales Bay watershed would be significantly diminished, to the detriment of these valuable coastal resources.
5. **Need:** Funding from the Conservancy is essential for the project to proceed at this time, to take full advantage of seasonal conditions and ranching schedules.
6. **Greater-than-local interest:** The need to address coastal water quality issues is a statewide concern. By completing projects designed to reduce sedimentation and improve salmonid habitat, the project will serve to protect and enhance aquatic species and wetland habitat in the Tomales Bay watershed, as well as contribute to state and federal goals of restoring listed species.

Additional Criteria

7. **Urgency:** The Coordinated Permit for the Tomales Bay watershed will be issued this summer and will cover a five year period. In order to take advantage of this permit, the MRCD needs funding for individual project design and implementation now.
8. **Resolution of more than one issue:** Not only will the proposed project result in improved habitat and water quality in the Tomales Bay watershed, but by working with the MRCD, private landowners will be relieved of the costly and time consuming permitting burden, long recognized as one of the biggest barriers to restoration on private property.
9. **Leverage:** See the “Project Financing” section above.
11. **Innovation:** The proposed project can serve as a model for other watersheds to use a permit coordination program tailored for a specific area to facilitate restoration action in a more timely and efficient manner. The MRCD estimates this program will reduce project implementation time from 3 to 1.5 years.
12. **Readiness:** Landowner and community interest is at an all-time high in the watershed. Landowners and cooperating agencies/organizations are eager to get started.
13. **Realization of prior Conservancy goals:** The Conservancy has a substantial interest and investment in preserving agriculture while improving the natural resources of western Marin County. Supporting the Tomales Bay Watershed Enhancement Program will further this goal.
14. **Return to Conservancy:** See the “Project Financing” section above.
15. **Cooperation:** These projects are a cooperative effort between the MRCD, the Tomales Bay Watershed Council, the regulatory agencies, and private landowners. In addition, the DFG, SWRCB and the NRCS are contributing funds to this project.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The project area is within the Coastal Zone of Marin County. The Marin County Local Coastal Program Unit 2 Land Use Plan identifies Marin’s numerous coastal zone streams and creeks as sensitive habitats for many species of birds and fish. Lagunitas Creek’s runs of coho and steelhead are specifically highlighted (*The Marin County Local Coastal Program Unit 2 Land Use Plan*, p. 65). Freshwater inflows, sedimentation, water pollution, and protection of riparian habitats are identified as the key concerns for protecting the aquatic resources of the Tomales Bay ecosystem (*ibid*, pp. 66-67). Because the proposed project will re-create riparian habitat where it has been lost, restore instream habitat, and improve sediment flushing by restoring natural geomorphologic processes, the proposed project is entirely consistent with the Local Coastal Program Policies.

Section 2 of the Marin LCP also articulates a general agricultural policy to “protect the existing and future viability of agricultural lands in its coastal zone. These policies are also intended to...protect coastal wildlife, habitat and scenic resources in accordance with Section 30240 of the Coastal Act” (pg. 98). By working with private landowners, the Tomales Bay Watershed Enhancement Program will improve the viability of agricultural lands and enhance the natural resources within the watershed.

COMPLIANCE WITH CEQA:

On June 9, 2004, the MRCD adopted a Mitigated Negative Declaration (MND) for its Marin Coastal Watersheds Permit Coordination Program and approved the Program, for which MRCD is the CEQA lead agency (Exhibit 4). In adopting the MND, the MRCD determined that the Permit Coordination Program, consisting of the 16 pre-approved and defined enhancement practices (Exhibit 2, 3), would not have a significant effect on the environment with the identified mitigation measures incorporated. The MND identified mitigation measures associated with potential impacts to biological resources, geology and soils, hazards and hazardous materials, and hydrology and water quality. These mitigation measures were incorporated into the project as a condition of approval. In addition, the MRCD adopted a Mitigation Monitoring Plan (MMP) with respect to these mitigation measures (Exhibit 5).

The Tomales Bay Watershed Enhancement Program, which the Conservancy would fund, involves individual enhancement projects which fall under the Permit Coordination Program and will consist of only those enhancement activities which have been approved under the Permit Coordination Program and which were the subject of the MND. These restoration actions are designed to control erosion, increase riparian habitat, and stabilize eroding channels. However, the permit program does not cover projects that involve grade stabilization structures in fish bearing streams, water diversion, dams, or any project that is likely to have an adverse affect on federally listed salmonids or their critical habitat. With the Marin Coastal Watershed Permit Coordination Program in place and acting as a guide, the Marin RCD will implement projects that are the proper size, scale, and scope to qualify for coverage.

Staff has reviewed the Mitigated Negative Declaration prepared by MRCD. The MND discusses potential environmental impacts of the project activities. Key areas considered include impacts to biological resources, geology/soils and hydrology/water quality. In all circumstances, potential impacts identified were minor and temporary, and mitigation measures were designed to ensure that potential disturbances will result in less than significant impacts and will provide for improved aquatic, riparian and/or upland habitat and decreased sedimentation in water bodies that benefit wildlife.

With respect to biological resources, potential impacts caused either directly or through habitat modification were identified. However, the project will not have a substantial adverse effect because project activities are designed to improve and restore stream habitat, to provide a long-term benefit to both anadromous salmonids and other fish and wildlife, and the project implementation avoids short-term adverse impacts through mitigation measures such as constraining the permissible work window to avoid nesting or breeding seasons of birds and terrestrial animals, minimizing site access points, and taking other precautionary measures to avoid the spreading of invasive species, trash, or hazardous materials such as equipment lubricants, etc. MRCD will get approval from the DFG and USFWS prior to project implementation to assure that, as envisioned, project impacts have been eliminated or minimized. When deemed necessary by DFG and/or USFWS, a qualified biologist will be onsite during construction.

Concerning soil erosion, Best Management Practices (BMP) will be utilized during construction

to prevent soils loss and polluted runoff. Biotechnical repairs will be the first option for implementation. Related to hydrology/water quality, BMPs will also be used, as well as mitigation measures incorporated as conditions of the §1600, et seq., Streambed Alteration Agreement MOA with DFG and/or Waste Discharge Requirements from the North Coast and San Francisco Bay Regional Water Quality Control Boards.

Comments were received on the proposed MND during the public comment review period and are summarized, along with the MRCD's responses, in Exhibit 6. Comments received resulted in changes that further restricted controversial practices (e.g. use of herbicides), substituted one form of mitigation, that is equally or more effective, for another, or added information to the MND to clarify, amplify, or make insignificant modifications to the MND. The MRCD subsequently adopted the MND, as revised.

With these changes and the other incorporated mitigations measures, staff concurs that the potentially significant effects of project activities to be funded by the Conservancy have been reduced to a less than significant level and that the project activities will not have a significant adverse effect on the environment. Staff therefore recommends that the Conservancy find that there is no evidence that the activities under the proposed authorization, as mitigated, will have a significant adverse effect on the environment. Upon approval, staff will file a Notice of Determination for the project.